

2013 DRAFTING REQUEST

Bill

Received: 11/27/2013 Received By: agary
Wanted: As time permits Same as LRB: -3926
For: Dale Schultz (608) 266-0703 By/Representing: Sheryl Albers
May Contact: Drafter: agary
Subject: Transportation - traffic laws Addl. Drafters:
Extra Copies: EVM

Submit via email: YES
Requester's email: Sen.Schultz@legis.wisconsin.gov
Carbon copy (CC) to: aaron.gary@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Enhanced penalty for failure to stop for school bus displaying flashing red lights if violation results in bodily harm, great bodily harm, or death

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	agary 12/10/2013			_____			
/P1	agary 1/8/2014	jdyer 12/16/2013	rschluet 12/16/2013	_____	sbasford 12/16/2013		Crime
/1		jdyer	rschluet	_____	srose	mbarman	Crime

Vers. Drafted

Reviewed
1/9/2014

Typed
1/9/2014

Proofed

Submitted
1/9/2014

Jacketed
1/10/2014

Required

FE Sent For:

None
needed

<END>

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/?	agary 12/10/2013			_____			
/P1	agary 1/8/2014	jdye 12/16/2013	rschlue 12/16/2013	_____	sbasford 12/16/2013		Crime
/1		jdye	rschlue	_____	srose		Crime

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No specific pre topic given

Topic:

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Instructions:

See attached

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/?	agary 12/10/2013	<i>1/9 jld</i>		_____			
/P1		jdye 12/16/2013	rschluet 12/16/2013	<i>C 12/16/14 JF</i>	sbasford 12/16/2013		Crime

FE Sent For:

<END>

2013 DRAFTING REQUEST

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Received: 11/27/2013 Received By: agary
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For: Dale Schultz (608) 266-0703 By/Representing: Sheryl Albers
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Submit via email: YES
Requester's email: Sen.Schultz@legis.wisconsin.gov
Carbon copy (CC) to: aaron.gary@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Enhanced penalty for failure to stop for school bus displaying flashing red lights if violation results in bodily harm, great bodily harm, or death ✓

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	agary	P1 12/16 jld		==			
FE Sent For:		1/9 jld	jd 12/16				

<END>

Gary, Aaron

From: Albers, Sheryl
Sent: Wednesday, November 27, 2013 9:26 AM
To: Gary, Aaron
Subject: Bill draft request from Sen. Schultz
Attachments: Grant Co DA letter Re proposed legislation re school bus.pdf

Aaron,

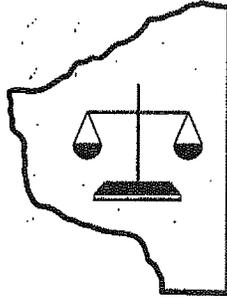
Please draft a bill which creates a specific criminal penalty for violation of Section 346.48. As to penalties, where violation results in bodily harm - H felony; where violation results in great bodily harm -F felony; and where violation results in death - D penalty. Per conversation had with Attorney Anne Sappenfeld of the Leg. Council, the penalties proposed would be in alignment with other criminal conduct related to causing harm to children.

Attached is request received on point from Grant County District Attorney Lisa A Riniker.

Thank you.

Sheryl Albers, Legislative Assistant
Office of State Senator Dale W. Schultz
Room 122 South State Capitol
PO Box 7882
Madison WI 53707-7882
608-266-0703

Office of the District Attorney
GRANT COUNTY COURTHOUSE
130 WEST MAPLE STREET
LANCASTER, WISCONSIN 53813
608-723-4237
Fax 608-723-4382



ASST. DISTRICT ATTORNEY
ANTHONY J. POZORSKI, SR.

VICTIM/WITNESS COORDINATOR
DARLA D. ADAMS
608-723-2462

LISA A. RINIKER

November 21, 2013

Senator Scott Fitzgerald
Senator Alberta Darling
Senator Jerry Petrowski
Senator Joseph Leibham
Senator Robert Cowles
Senator Tim Carpenter
Senator Dave Hansen
Senator Dale Schultz

Representative Robin Voss
Representative Joel Kleefisch
Representative John Spiros
Representative Andre' Jacque
Representative Jim Ott
Representative Erik Severson
Representative Garey Bies
Representative Frederick Kessler
Representative Evan Goyke
Representative LaTonya Johnson
Representative Travis Tranel
Representative Lee Merison
Representative Howard Marklein

RE: Law regarding stopping for school buses

Dear Senators and Representatives:

I recently was involved in a case involving a stopped school bus and a vehicle attempting to pass that school bus resulting in a six year old being struck and run over. The school bus had its flashing red lights activated and the stop arm was extended. The bus was attempting to let three sisters off at their home after a day of school. Three vehicles were behind the stopped bus. The vehicle immediately behind the bus had properly stopped. The same is true of the third vehicle behind the bus. However, the second vehicle behind the bus pulled onto the right-hand shoulder of the road, passed the vehicle in front of it, and proceeded to travel alongside of the bus on its passenger side. At this same time, a six year old little girl stepped off of the bus and was struck, knocked down, and ran over by the vehicle.

The vehicle remained at the scene. Law enforcement responded and the driver of the vehicle was questioned regarding what happened. While the driver asserted that she had hit a slippery spot and lost control, the physical evidence and the statements from witnesses, would not support that assertion. Law enforcement did not observe any indicators of impairment and blood was not taken from her. There was no indication that the driver was texting or using her phone at all. To this day, the driver has not provided any explanation as to why she chose to pass the legally stopped bus.

Senators and Representatives
Page 2
November 21, 2013

When I first received this case, I turned to Section 346.48 of the Wisconsin Statutes. Subsection (1) of that statute states:

The operator of a vehicle which approaches from the front or rear any school bus which has stopped on a street or highway when the bus is equipped according to s. 347.25(2) and when it is displaying flashing red warning lights, shall stop the vehicle not less than 20 feet from the bus and shall remain stopped until the bus resumes motion or the operator extinguishes the flashing red warning lights. The operator of any school bus which approaches from the front or rear any school bus which has stopped and is displaying flashing red warning lights shall display its flashing red lights while stopped. This subsection does not apply to operators of vehicles proceeding in the opposite direction on a divided highway.

Clearly, this statute was violated. I then looked for the penalty associated with this violation and found it at 346.49(2). It indicates that any person violating s. 346.455 or 346.48 may be required to forfeit not less than \$30 nor more than \$300. There was nothing in the penalty section which would elevate the penalty for violating 346.48 if there was an injury, great bodily harm, or death caused by a violation.

I then turned to other areas of the statutes to find a viable alternative to proceeding with just a forfeiture given the significance of the injuries. Reckless driving seemed appropriate as did negligent operation of a vehicle. However, my concern still remained that this matter would be attacked due to the fact that there was a very specific statute that was violated and yet I was choosing to file a complaint under a different statute.

I would like to see the penalty section for violating Section 346.48 amended to add a specific criminal penalty for violations of Section 346.48 that result in bodily harm, great bodily harm, or death.

I appreciate you taking the time to read this letter and hope that some action can be taken to address my concerns. Thank you.

Very truly yours,



Lisa A. Riniker

LAR: jr



Soon



in
12/10

Jed

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

4

Gen

1 AN ACT ...; relating to: the penalty for failing to stop for a school bus displaying
2 flashing red warning lights and providing a penalty. ✓

Analysis by the Legislative Reference Bureau

Current law requires motorists who approach a school bus that is stopped and displaying flashing red lights to stop their approaching vehicles not less than 20 feet from the bus and to remain stopped until the bus resumes motion or the bus driver extinguishes the flashing red lights, unless the school bus is on the opposite side of a divided highway. ✓ With certain exceptions, the operator of a school bus must activate the flashing red lights at least 100 feet before stopping to load or unload pupils or other passengers and may not extinguish these lights until loading or unloading is completed and anyone who must cross the highway is safely across. A motorist who violates the requirement to stop for a school bus displaying flashing red lights may be required to forfeit not less than \$30 nor more than \$300. ✓

This bill creates a penalty enhancement for failure to stop for a school bus displaying flashing red lights if the failure to stop results in bodily harm, great bodily harm, or death to another. Under the bill, the penalty is as follows: ✓ 1) if the failure to stop results in bodily harm, the violation is a Class H felony, punishable by a fine not exceeding \$10,000 ✓ or imprisonment not exceeding six years or both; ✓ 2) if the failure to stop results in great bodily harm, the violation is a Class F felony, punishable by a fine not exceeding \$25,000 ✓ or imprisonment not exceeding 12.5 years or both; ✓ or 3) if the failure to stop results in death, the violation is a Class D felony, punishable by a fine not exceeding \$100,000 ✓ or imprisonment not exceeding 25 years or both. ✓

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 346.49 (2) of the statutes is renumbered 346.49 (2) (a) and amended
2 to read:

3 346.49 (2) (a) Any Except as provided in par. (b), (c), or (d), any person violating
4 s. 346.455 or 346.48 may be required to forfeit not less than \$30 nor more than \$300.

History: 1971 c. 278; 1973 c. 182; 1981 c. 168; 1983 a. 27, 175; 1985 a. 186; 1993 a. 198; 1995 a. 424; 1997 a. 135, 237, 277; 2001 a. 90; 2003 a. 209.

5 **SECTION 2.** 346.49 (2) (b), (c) and (d) of the statutes are created to read:

6 346.49 (2) (b) If a person violates s. 346.48 (1) and the violation results in bodily
7 harm, as defined in s. 939.22 (4), to another, the person is guilty of a Class H felony.

8 (c) If a person violates s. 346.48 (1) and the violation results in great bodily
9 harm, as defined in s. 939.22 (14), to another, the person is guilty of a Class F felony

10 (d) If a person violates s. 346.48 (1) and the violation results in death to another,
11 the person is guilty of a Class D felony.

12 **SECTION 3. Initial applicability.**

13 (1) This act first applies to violations of section 346.48 (1) of the statutes that
14 occur on the effective date of this subsection.

15

(END)

Gary, Aaron

From: Julian, Jamie
Sent: Wednesday, January 08, 2014 11:46 AM
To: Gary, Aaron
Cc: Albers, Sheryl
Subject: RE: LRB 3731: bus bill

Hi, I don't believe there was an issue with the rest of the bill. So, in changing the three categories of harm to G, H and I I believe we should be okay - /1 is find.

Thanks,

Jamie Julian

Office of Rep. André Jacque
2nd Assembly District

Room 123 West
State Capitol
P.O. Box 8952
Madison, WI 53709

(608) 266-9870

From: Gary, Aaron
Sent: Wednesday, January 08, 2014 11:26 AM
To: Julian, Jamie
Cc: Albers, Sheryl
Subject: RE: LRB 3731: bus bill

Hi Jamie and Sheryl,

I have entered the request for Rep. Jacque as LRB-3926. Do you want these two drafts to be introducible "/1"s or a "/P1" (-3926) and "/P2" (-3731)?

Thanks. Aaron

From: Julian, Jamie
Sent: Tuesday, January 07, 2014 3:49 PM
To: Gary, Aaron
Cc: Albers, Sheryl
Subject: LRB 3731: bus bill

Hi Aaron:

Rep. Jacque will be the assembly lead on this bill so we would like a companion bill drafted for the assembly.

Also, the penalties drafted in the current bill should change (in both versions). Currently the penalties are based on child neglect and separated into three categories based on bodily harm, great bodily harm and death.

You can keep these categories of harm but please draft the penalties on par with reckless/negligent driving: Death – class G/Great bodily harm – class H/Bodily harm – class I.

Thank you. Let me know if you have any questions. Feel free of course to email Sheryl if you need to establish permission to make the changes with the Sen. Schultz office.

Sincerely,

Jamie Julian

Office of Rep. André Jacque
2nd Assembly District

Room 123 West
State Capitol
P.O. Box 8952
Madison, WI 53709

(608) 266-9870

Gary, Aaron

From: Albers, Sheryl
Sent: Wednesday, January 08, 2014 1:07 PM
To: Gary, Aaron
Subject: RE: LRB 3731: bus bill

Aaron,

We are going to go with Rep. Jacque's version , so both Senate and Assembly versions should be the same.

Sheryl Albers, Legislative Assistant
Office of State Senator Dale W. Schultz
Room 122 South State Capitol
PO Box 7882
Madison WI 53707-7882
608-266-0703

From: Gary, Aaron
Sent: Wednesday, January 08, 2014 11:26 AM
To: Julian, Jamie
Cc: Albers, Sheryl
Subject: RE: LRB 3731: bus bill

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Cc: Albers, Sheryl
Subject: LRB 3731: bus bill

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You can keep these categories of harm but please draft the penalties on par with reckless/negligent driving: Death – class G/Great bodily harm – class H/Bodily harm – class I.

Thank you. Let me know if you have any questions. Feel free of course to email Sheryl if you need to establish permission to make the changes with the Sen. Schultz office.

Sincerely,



State of Wisconsin
2013 - 2014 LEGISLATURE

soon



LRB-3731/D
ARG:jld:rs

2013 Bill in 1/8

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

These 2 bills
are the same.
Aaron

X

Regen

- 1 AN ACT to renumber and amend 346.49 (2); and to create 346.49 (2) (b), (c) and
- 2 (d) of the statutes; relating to: the penalty for failing to stop for a school bus
- 3 displaying flashing red warning lights and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law requires motorists who approach a school bus that is stopped and displaying flashing red lights to stop their approaching vehicles not less than 20 feet from the bus and to remain stopped until the bus resumes motion or the bus driver extinguishes the flashing red lights, unless the school bus is on the opposite side of a divided highway. With certain exceptions, the operator of a school bus must activate the flashing red lights at least 100 feet before stopping to load or unload pupils or other passengers and may not extinguish these lights until loading or unloading is completed and anyone who must cross the highway is safely across. A motorist who violates the requirement to stop for a school bus displaying flashing red lights may be required to forfeit not less than \$30 nor more than \$300.

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three and one-half ✓

*

\$10,000

\$25,000

ten ✓

H

H

SIX

ten

Barman, Mike

From: Gary, Aaron
Sent: Thursday, January 09, 2014 3:25 PM
To: Barman, Mike
Subject: FW: Companion Bill Request ... Draft Review: LRB -3926/1 Topic: Enhanced penalty for failure to stop for school bus displaying flashing red lights if violation results in bodily harm, great bodily harm, or death

Sheryl's response, below

From: Albers, Sheryl
Sent: Thursday, January 09, 2014 3:24 PM
To: Gary, Aaron
Subject: RE: Companion Bill Request ... Draft Review: LRB -3926/1 Topic: Enhanced penalty for failure to stop for school bus displaying flashing red lights if violation results in bodily harm, great bodily harm, or death

Please do. Thank you.

Sheryl Albers, Legislative Assistant
Office of State Senator Dale W. Schultz
Room 122 South State Capitol
PO Box 7882
Madison WI 53707-7882
608-266-0703

From: Gary, Aaron
Sent: Thursday, January 09, 2014 2:45 PM
To: Barman, Mike; Julian, Jamie
Cc: Albers, Sheryl
Subject: RE: Companion Bill Request ... Draft Review: LRB -3926/1 Topic: Enhanced penalty for failure to stop for school bus displaying flashing red lights if violation results in bodily harm, great bodily harm, or death

Hi Mike, The senate companion is LRB-3731/1.

Sheryl, should we jacket LRB-3731 for Sen. Schultz?

Thanks.

Aaron R. Gary
Attorney, Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Barman, Mike
Sent: Thursday, January 09, 2014 2:28 PM
To: Julian, Jamie
Cc: Gary, Aaron
Subject: Companion Bill Request ... Draft Review: LRB -3926/1 Topic: Enhanced penalty for failure to stop for school bus displaying flashing red lights if violation results in bodily harm, great bodily harm, or death

We received your request to jacket LRB-3926/1 for both the Senate and the Assembly.

Drafts can only be jacketed for one house. I will inform the drafting attorney (ARG 261-6926) you wish to have a "companion bill" (new LRB number) drafted for the Senate.

We will go ahead and jacket LRB-3926/1 for the Assembly and send it over to your office later today.

Please contact us if you have any questions.

Thanks,

Mike Barman (Lead Program Assistant)

State of Wisconsin - Legislative Reference Bureau - Legal Section - Front Office

1 East Main Street, Suite 200, Madison, WI 53703

(608) 266-3561 / mike.barman@legis.wisconsin.gov

From: Julian, Jamie

Sent: Thursday, January 09, 2014 2:12 PM

To: LRB.Legal

Subject: Draft Review: LRB -3926/1 Topic: Enhanced penalty for failure to stop for school bus displaying flashing red lights if violation results in bodily harm, great bodily harm, or death

Please Jacket LRB -3926/1 for the SENATE.

Barman, Mike

From: Albers, Sheryl
Sent: Thursday, January 16, 2014 9:10 AM
To: Barman, Mike
Subject: RE: Jacketing Request ... Draft Review: LRB -3731/1 Topic: Enhanced penalty for failure to stop for school bus displaying flashing red lights if violation results in bodily harm, great bodily harm, or death

I have it (the jacketed draft).

Felt compelled to tap the button as it was altogether new, when the email came to me this morning from my co-worker.

My error. My apology.

Sheryl Albers, Legislative Assistant
Office of State Senator Dale W. Schultz
Room 122 South State Capitol
PO Box 7882
Madison WI 53707-7882
608-266-0703

From: Barman, Mike
Sent: Thursday, January 16, 2014 8:36 AM
To: Albers, Sheryl
Subject: Jacketing Request ... Draft Review: LRB -3731/1 Topic: Enhanced penalty for failure to stop for school bus displaying flashing red lights if violation results in bodily harm, great bodily harm, or death

We received your request to jacket LRB-3731/1 for the Senate today. According to our records this draft was jacketed (as requested by your office) on January 10th and sent to your office by page.

If you are unable to locate it please contact the drafting attorney (Aaron Gary 261-6926) ... he will have to re-draft it with a new LRB number.

Please contact me if you have any questions.

Thanks,

Mike Barman (Lead Program Assistant)
State of Wisconsin - Legislative Reference Bureau - Legal Section - Front Office
1 East Main Street, Suite 200, Madison, WI 53703
(608) 266-3561 / mike.barman@legis.wisconsin.gov

From: Albers, Sheryl
Sent: Thursday, January 16, 2014 8:20 AM
To: LRB.Legal

Subject: Draft Review: LRB -3731/1 Topic: Enhanced penalty for failure to stop for school bus displaying flashing red lights if violation results in bodily harm, great bodily harm, or death

Please Jacket LRB -3731/1 for the SENATE.